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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,585	10/06/2003	Charles Roesset	SST/1275	5260

498 7590 03/31/2005

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EXAMINER	
KATCHEVES, BASIL S	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/680,585	ROESSET ET AL.	
	Examiner	Art Unit	
	Basil Katcheves	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 15-23* is/are rejected.

7)☒ Claim(s) *11-14* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 October 2003* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Marked figure*.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 recites the limitation "said reinforcing embossments" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

Claims 18-21 are objected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 1 is drawn to a stud plate and framework subcombination, whereas claims 18-21 are drawn to a concrete foundation, implying a combination with the framework and stud plate. The claims are examined as a subcombination. Clarification is required in the claims if this is not the intent of the applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,259,685 to Gilb.

Regarding claim 1, Gilb discloses a base plate with an edge and upper face, a top plate with a lower face and edge face, an elongated stud butting against the plates and a stud plate (15) having a face portion which is at a right angle to an edge portion, the stud plate having holes for fasteners to connect through into the stud edge face and into the plate edge faces when the stud plate face is on the outer face of each of the base and top plates (marked fig. 24).

Regarding claim 2, Gilb discloses the stud plates as having fastener openings in its edge member (marked fig. 24).

Regarding claim 3, Gilb discloses that when the stud plate faces are against outer edges of the base and top plate, the holes are lined in a manner to secure to the stud edge and to the base and top plate edges (marked fig. 24).

Regarding claim 15, Gilb discloses visual indicia (holes in the plate) to see through in order to judge where the fastening surface is located.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,259,685 to Gilb.

Regarding claim 4, Gilb discloses the claimed invention except for the specific number of fasteners as disclosed in the application. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the same number of fasteners, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art to increase the connection strength of the stud plates. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

Regarding claim 17, Gilb discloses the basic claim structure of the application, as noted in the rejection of claim 1. However, Gilb does not disclose the particular order of assembling the components. It would have been obvious to one having ordinary skill in the art at the time the invention was made to build the assemble the components as claimed in this application, since placing frame members together, placing connecting plates on joints, and fastening the plates is common in the art of frame building.

Regarding claims 18-21, applicant should note that the underlying structural member is not positively claimed. Therefore, the base plate of Gilb is capable of being

pressed against an underlying structural member and therefore meets the limitations of the claim.

Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,259,685 to Gilb in view of U.S. Patent No. 1,486,509 to Whittaker.

Regarding claims 5-7, Gilb does not disclose the use of embossments extending from the face continuously to the edge on the stud plate. Whittaker discloses a stud plate having continuous embossments (fig. 1) which extend from the face to the edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gilb by adding the embossments disclosed by Whittaker, in order to increase the rigidity of the plate.

Regarding claims 8 and 9, Gilb discloses the claimed invention except for two top and two bottom plates as disclosed in the application. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the same number of plates, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art to increase the strength of the structure. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

Regarding claim 10, Gilb discloses the edge member of the plate as being substantially as wide as the stud edge face (marked fig. 24).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,259,685 to Gilb in view of U.S. Patent No. 2,413,362 to Maxwell et al.

Regarding claim 16, Gilb does not disclose a second, different hole which can be used as indicia. Maxwell discloses a stud plate having two different holes capable of use as indicia (fig. 2: 9 & 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gilb by adding a second type of hole, as disclosed by Maxwell, in order to save materials, weight , and costs.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,259,685 to Gilb in view of U.S. Patent No. 2,413,362 to Maxwell et al. further in view of U.S. Patent No. 1,486,509 to Whittaker.

Regarding claim 22, claim 22 is rejected for reasons cited in the rejection of claim 6. In addition, Whittaker discloses the embossments as extending past fastener holes (fig. 1).

Regarding claim 23, Gilb in view of Maxwell further in view of Whittaker discloses the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Claim Objections

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 12-14 are objected for depending from claim 11.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to stud plates in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

3/17/05

Basil Katcheves

Examiner AU 3635

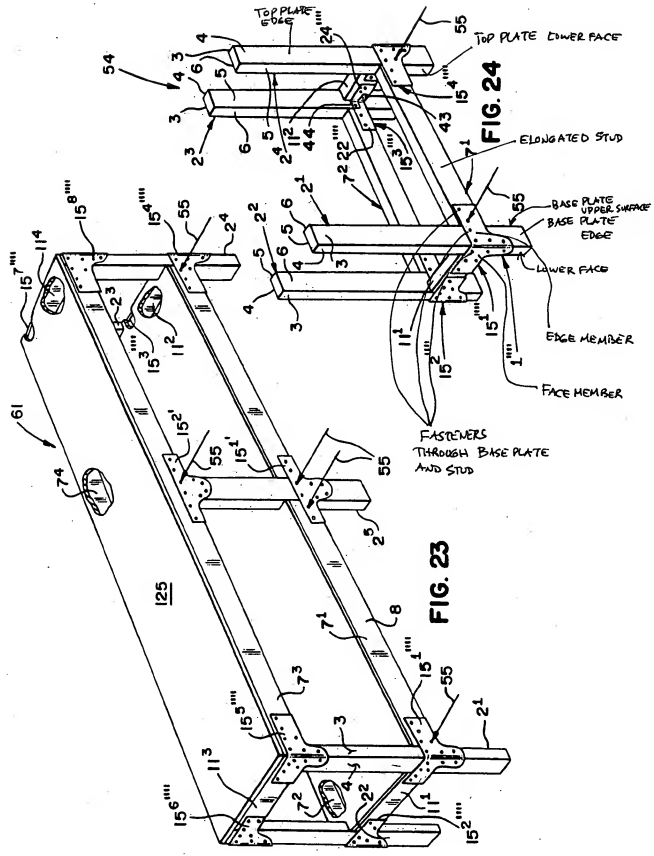
TOP PLATE EDGE
TOP PLATE LOWER FACE
ELONGATED STUD
BASE PLATE UPPER SURFACE
BASE PLATE EDGE
LOWER FACE
EDGE MEMBER
FACE MEMBER
FASTENERS THROUGH BASE PLATE AND STUD
125

FIG. 24

FIG. 23